

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, ex rel.,)
State Engineer,)
)
Plaintiff,)
)
vs.) NO. 69-CV-7941 SC
)
RAMON ARAGON, et al.,)
)
Defendants.)

TRANSCRIPT OF PROCEEDINGS

March 12, 1996

9:00 a.m.

New Mexico Court of Appeals, Room 119
237 Don Gaspar Avenue
Santa Fe, New Mexico

BEFORE: VICKIE L. GABIN, Special Master

1 MR. WALTZ: The group that works on
2 behalf of my acequias, Rio Chama Acequia
3 Association, has recently made contact with
4 them. I do not represent them at this time.

5 SPECIAL MASTER GABIN: Okay.
6 Mr. Simpson, what did you want to say on the
7 record about pro se parties?

8 MR. SIMPSON: I guess when we were
9 speaking before we went on the record there were
10 some questions that just weren't quite buttoned
11 down yet. And I think with respect to
12 Mr. Waltz's representation of them, with respect
13 to the binding nature of any order that you
14 might issue in their absence, that kind of
15 thing, I just -- my comfort level would be
16 higher if we talked about it on the record.

17 SPECIAL MASTER GABIN: Okay. Well,
18 on the record, as I understand it, Mr. Waltz
19 represents the acequias -- the actual acequia
20 commissions and associations, and does not
21 represent the individual acequia members.

22 There are some individuals who have
23 objected and may or may not want to represent
24 themselves pro se. And what we need to do is
25 find out who they are and make sure they get

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1 copies of the Pretrial Order, and make sure
2 they're involved. And Mr. Waltz may be the best
3 resource person to find out exactly who those
4 people are. Do you have a procedure in mind
5 where we can pin them down?

6 MR. WALTZ: Your Honor, I believe I
7 have copies of their objections. And if I
8 don't, I didn't bring that with me. Those names
9 and addresses are easily identifiable. They
10 should at least be afforded the Court's Pretrial
11 Order.

12 What I'm suggesting is that within a
13 short period of time, perhaps a couple of weeks
14 at the most, I would be able to, myself, find
15 out from those people if they would like me to
16 represent them as well as their commissions.
17 I'm sure there would be not any conflict of
18 interest, but I'm offering my service as an
19 attorney to those people. Otherwise, without
20 any further notice to the Court, they should be
21 treated as individual pro se parties with notice
22 and proceed accordingly.

23 SPECIAL MASTER GABIN: I guess the
24 clerk has a list of those. I don't. Is there
25 anybody here that's going to represent himself

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1 or herself in these proceedings that would like
2 to speak? Mr. Simpson.

3 MR. SIMPSON: One other point came
4 to mind as you were talking about this. Would
5 the Special Master prefer that we serve the
6 Pretrial Order on everybody else, all the other
7 active counsel and pro se parties, i.e., the
8 mailing list as it exists now? I see a lot of
9 people showed up here that I didn't expect were
10 going to show up, and I apologize for not saying
11 anything before this.

12 I just sent one to the federal people
13 out of courtesy, because David Benavides and I
14 talked about it recently. Obviously, it's not
15 that big of a deal to send two more copies out.

16 SPECIAL MASTER GABIN: Mr. Waltz.

17 MR. WALTZ: I would like to point
18 out, though, that if those parties participate
19 in the hearings, we should know because then
20 they would be bound by those hearings and would
21 not have a chance thereafter to file inter se
22 objections. It's important -- we can't have
23 them being in two different hearings. And they
24 may want to just sit out, as would be the
25 ordinary procedure, and let the State and

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1 acequias -- or pro se parties adjudicate this
2 matter, get an interim order entered on those
3 priority dates, and then treat all acequias
4 equally the same, all priority dates, and then
5 put out a general notice of interstate
6 proceedings, rather than get it too confusing.

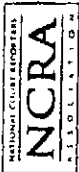
7 I would suggest that the other parties
8 may opt out, and thereby not confuse the record
9 in dealing with objections they may have to
10 anybody's priority dates. If they want to opt
11 in, though, then the Court needs to be aware of
12 who those are.

13 SPECIAL MASTER GABIN: Mr. Simpson.

14 MR. SIMPSON: For my part, Special
15 Master, I would plead with you to not allow them
16 to opt in at this time. I can imagine that they
17 would want to observe. My preference is that
18 they stay at that level, because I don't want
19 them to be involved in kind of a fractional,
20 pseudo inter se proceeding. As far as I'm
21 concerned, it's between me and Mr. Waltz and his
22 clients and the pro se parties, and I would like
23 to keep it that way.

24 SPECIAL MASTER GABIN: Isn't that
25 what the State usually does, barring the

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1 extraordinary procedures that you're involved
2 in?

3 MR. SIMPSON: The many
4 extraordinary procedures, right. Yes, I think
5 so.

6 SPECIAL MASTER GABIN: Mr. Waltz.

7 MR. WALTZ: I would like to
8 concur. I think, keep the matter as simple as
9 possible. And on the normal terms, whatever
10 those may be, it should be just a hearing
11 between the State and the individual acequias
12 and pro se parties.

13 SPECIAL MASTER GABIN: It's
14 possible we have some kinds of orders limiting
15 service in this case. I'm a relative newcomer,
16 like Mr. Simpson, and maybe I can get a law
17 clerk to search the record and see if we've
18 gotten anything. Otherwise, I'll make that
19 explicit.

20 MR. SIMPSON: Should we include
21 that in the Pretrial Order that we draft in
22 final form?

23 SPECIAL MASTER GABIN: Sure. The
24 State has more experience than I in that.

25 I have a general question for you,

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